IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

-

WRIT PETITION NO : 22060 of 2004

Between:

B.B. Reddy S/o Bal Reddy
Palamaner, Chittoor District

..... PETITIONER

AND

1 The Regional Manager, APSRTC., Tirupathi, Chittoor district
2 The Divisional Manager, APSRTC., Chittoor, Chittoor District
3 The Depot Manager, APSRTC. Palamaner, Chittoor district

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandmaus declaring the action of the Depot Manager, APSRTC, Palamaner in removing the petitioner from service by his proceedings No.1/114(11)/2003-PLMR, dated 2-9-2003 and as confirmed by the Divisional Manager by his orders, dated 30-9-2003 and by the Regional Manager, Tirupathi as illegal, arbitrary and disproportionate to the gravity of the case and rejecting his appeal without giving any opportunity is arbitrary and un just and consequently direct the respondents to reinstate the petitioner into service afresh with all terminal benefits

Counsel for the Petitioner: MR.D.KODANDARAMI REDDY

Counsel for the Respondent No.: MR.P.VINAYAKA SWAMY

The Court made the following :

ORDER:

This writ petition is filed challenging the order of the 2nd respondent-Divisional Manager, A.P.S.R.T.C., Chittoor District, dated 30-09-2003, whereunder the order of the first respondent-Depot Manager, A.P.S.R.T.C., Palmaner, Chitoor District, dated 02-09-2003, was confirmed.

The case of the petitioner is that the respondents-Corporation by alleging against him that he has driven the bus bearing No.AP10Z-1547 on 19-03-2003 in an intoxicated condition and misbehaved with the passengers of the bus, conducted a departmental enquiry against him and after enquiry, the 3rd respondent-Depot Manager, A.P.S.R.T.C., Chittoor District, passed the order, dated 02-09-2003, removing him from the service. Aggrieved by the said order, the petitioner filed an appeal before the 2nd respondent and the same was rejected by him vide order, dated 30-09-2003. Challenging the same, the present writ petition is filed.

Learned counsel for the petitioner contended that the alleged misconduct is grossly disproportionate to the proved alleged misconduct and therefore, he prays to set aside the impugned proceedings.

Learned standing counsel, Mr. Vinayaka Swamy, appearing on behalf of the

respondents contended that a review lies against the order passed by the 2nd respondent-Divisional Manager and that the enquiry proceedings are not challenged by the petitioner, therefore, he prays to quash the writ proceedings.

The charge against the petitioner is that on 19-03-2003 at about 7.30 p.m. while he was driving the bus in an intoxicated condition misbehaved with the passengers.

A regular departmental enquiry was conducted against him. It is not the case of the writ petitioner that principles of natural justice have not been observed in conducting the regular departmental enquiry. The only contention is that the alleged misconduct is disproportionate to the proved misconduct, and therefore, prays to set aside the same.

However, an alternative remedy is available to the petitioner by way of review before the Regional Manager, who is the competent authority to pass appropriate orders. In that view of the matter, an alternative remedy is not a bar for this Court in exercising its jurisdiction under Article 226 of Constitution of India and at the same time, this Court cannot interfere with such matters unless the jurisdiction of the disciplinary authority is under challenge. So also, this Court can interfere, if there is gross violation of principles of natural justice in conducting the enquiry or no opportunity was given to the writ petitioner in the enquiry. It is not a case of denial of opportunity to the writ petitioner or violating the principles of natural justice and it is not a case of jurisdiction of the order passed by the Disciplinary authority.

In the facts and circumstances of the case, the writ petition is disposed of with a direction to the writ petitioner to file a review petition before the 1st respondent-Regional Manager, A.P.S.R.T.C., Tirupathi, Chittoor District, and the 1st respondent is directed to dispose of the same within a period of two months thereafter. No order as to costs.

K.C. Bhanu, J

Date:02-12-2004

KLP

To

1 The Regional Manager, APSRTC., Tirupathi, Chittoor district
2 The Divisional Manager, APSRTC., Chittoor, Chittoor District
3 The Depot Manager, APSRTC. Palamaner, Chittoor district

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